

Robert Garrett, SBN 65886
rgarrett@garrett-tully.com
Tomas A. Ortiz, SBN 188873
tortiz@garrett-tully.com
GARRETT & TULLY, P.C.
225 S. Lake Ave., Suite 1400
Pasadena, California 91101-4869
Telephone: (626) 577-9500
Facsimile: (626) 577-0813

Attorneys for Defendant Deutsche Bank
National Trust Company, as Trustee for
Alliance Bancorp Mortgage Backed Pass-
Through Certificate Series 2007-OA1

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, SAN FERNANDO DIVISION

In re
STEVEN MARK ROSENBERG,
Debtor.

STEVEN MARK ROSENBERG,
Plaintiff,

vs.

ALLIANCE BANCORP, INC (Estate),
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
OCWEN LOAN SERVICING, ONE
WEST BANK, DEUTSCHE BANK
NATIONAL TRUST COMPANY, AS
TRUSTEE FOR ALLIANCE
BANCORP MORTGAGE BACKED
PASS-THROUGH CERTIFICATE
SERIES 2007-OA1 AND DOES 1
THROUGH 25, INCLUSIVE,
Defendants.

Case No. 1:17-bk-11748-VK
Chapter 7
Adv No. 1:17-ap-01096-VK

**AMENDED NOTICE OF MOTION
FOR SANCTIONS AGAINST
PLAINTIFF STEVEN MARK
ROSENBERG PURSUANT TO
FEDERAL RULES OF CIVIL
PROCEDURE RULE 11 AND
FEDERAL RULES OF
BANKRUPTCY PROCEDURE
RULE 9011: IN THE FORM OF
MONETARY SANCTIONS IN THE
AMOUNT OF \$6,360.00 AGAINST
PLAINTIFF STEVEN MARK
ROSENBERG AND NON-
MONETARY SANCTIONS IN THE
STRIKING OF THE NOTICE OF
MOTION AND MOTION TO
ALTER OR AMEND JUDGMENT**

NEW Date: December 5, 2018
Time: 2:30 p.m.
Crtrm: 301

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that the motion by defendant Deutsche Bank National Trust Company, as Trustee for Alliance Bancorp Mortgage Backed Pass-Through Certificate Series 2007-OA1 (“Deutsche Bank”) for an order awarding both monetary and non-monetary sanctions against plaintiff Steven Mark Rosenberg (“Rosenberg”) pursuant to Federal Rules of Civil Procedure, Rule 11, and Federal Rules of Bankruptcy Procedure, Rule 9011 (the “Motion”) *originally* calendared for October 3, 2018, at 2:30 p.m., in Courtroom 301 of the above-entitled court, located at 21041 Burbank Blvd, Woodland Hills, California 91367 has now been *calendared* for hearing on *December 5, 2018, or as soon thereafter as the matter may be heard, at 2:30 p.m., in Courtroom 301 of the above-entitled court, located at 21041 Burbank Blvd, Woodland Hills, California 91367.*

Again, the new hearing date, time and location is:

Date: December 5, 2018

Time: 2:30 p.m.

Location: Courtroom 301

Specifically, Deutsche Bank is moving for an order awarding (1) non-monetary sanctions in the form of the striking of Rosenberg’s frivolous notice of motion and motion to alter or amend judgment; and (2) monetary sanctions in the amount of \$6,360.00 in favor of Deutsche Bank for Rosenberg filing and maintaining the frivolous notice of motion and motion to alter or amend judgment.

Rosenberg’s motion to alter or amend judgment is frivolous. It is neither well-grounded in, nor warranted by, fact or existing law. Its sole purpose is to delay and obfuscate, stalling final resolution and freezing Deutsche Bank’s rights and interests.

A motion to alter or amend judgment under FRCP Rule 59(e) must be brought only in those instances where (1) there is newly-discovered evidence; (2) there is an

1 intervening change in the controlling law; or (3) the court committed clear error or its
2 initial decision was manifestly unjust.

3 Here, there is no new evidence. There is no new law. And, nothing in the motion
4 remotely establishes that the court's decision was a result of "clear error" or
5 "manifestly unjust." Rosenberg's motion is completely meritless. The motion makes
6 arguments that (contrary to Rosenberg's position otherwise) were considered by the
7 court and correctly rejected in its ruling. The motion also makes arguments that are
8 unintelligible, irrelevant and premised entirely on misapplication of the law and
9 misstatements of fact – including misstatements regarding this Court's own ruling.
10 The motion is not only frivolous, but it appears to have been filed in bad faith for no
11 legitimate purpose. At best, Rosenberg's motion is nothing more than an attempt by
12 Rosenberg to reargue his opposition to the motion for judgment on the pleadings, but
13 even under this "best light," it is an improper use of a Rule 59(e) motion. ***This motion***
14 ***must be struck and Rosenberg sanctioned.***

15 Moreover, Rosenberg noticed and served his motion for hearing without
16 calendaring or obtaining a hearing date. Counsel for Deutsche Bank advised
17 Rosenberg of this on two separate occasions and advised Rosenberg that his notice
18 and motion were defective and that no hearing had been set or calendared. Rosenberg
19 has ignored Deutsche Bank, again, underscoring what clearly appears to be
20 Rosenberg's motive for filing his motion – to delay and obfuscate.

21 FRCP Rule 11 sanctions are clearly warranted.

22 Rosenberg was served with this motion on August 15, 2018. (Declaration of
23 Tomas A. Ortiz, para. 6.) Rosenberg was given and provided notice of the twenty-one
24 (21) day "safe harbor" period by Deutsche Bank. (Ortiz Decl., para. 6.) On September
25 6, 2018, exactly twenty-one (21) days after being served with the sanction motion,
26 Rosenberg filed a "declaration" in support of his motion to alter or amend the
27 judgment. (Ortiz Decl., para. 7.) Rosenberg's eleventh hour filing is nothing more
28 than a reiteration of his flawed and frivolous arguments in the form of declaration and

1 the suggestion that he has documented proof of his attempts to calendar the motion
2 for hearing – although he does not attach nor specify what that documented proof is
3 or when those attempts were made; nor does he explain why it took him months to
4 address this issue or otherwise respond to Deutsche Bank’s attempts to get him to
5 calendar his motion.

6 This motion is made pursuant to Federal Rules of Civil Procedure, Rule 11, and
7 Federal Rules of Bankruptcy Procedure, Rule 9011, and is based on this notice, the
8 accompanying memorandum of points and authorities, the declaration of Tomas A.
9 Ortiz, the request for judicial notice, and exhibits thereto, the pleadings and papers on
10 file in this matter, and any such other and further evidence and arguments as may
11 hereafter be adduced.

12 Pursuant to Local Bankruptcy Rule 9013-1(c)(2), Deutsche Bank hereby
13 provides notice to Rosenberg that ***Local Bankruptcy Rule 9013-1(f) requires a***
14 ***written response to be filed and served at least fourteen (14) days before the hearing***
15 ***on this motion.***

17 DATED: September 13, 2018

GARRETT & TULLY, P.C.

Robert Garrett

Tomas A. Ortiz

/s/ Tomas A. Ortiz

TOMAS A. ORTIZ

Attorneys for Defendant Deutsche Bank National Trust
Company, as Trustee for Alliance Bancorp Mortgage
Backed Pass-Through Certificate Series 2007-OA1

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
225 S. Lake Avenue, Suite 1400 Pasadena, CA 91101

A true and correct copy of the foregoing document entitled (*specify*): **AMENDED NOTICE OF MOTION FOR SANCTIONS AGAINST PLAINTIFF STEVEN MARK ROSENBERG PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE RULE 11 AND FEDERAL RULES OF BANKRUPTCY PROCEDURE RULE 9011: IN THE FORM OF MONETARY SANCTIONS IN THE AMOUNT OF \$6,360.00 AGAINST PLAINTIFF STEVEN MARK ROSENBERG AND NON-MONETARY SANCTIONS IN THE STRIKING OF THE NOTICE OF MOTION AND MOTION TO ALTER OR AMEND JUDGMENT** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **9/14/18**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Amy L. Goldman (TR) marisol.jaramillo@lewisbribois.com; AGoldman@iq7technology.com;
ustpreion16.wh.ecf@usdoj.gov; Marvin Adviento, Lukasz I. Wozniak, Def. Alliance Bancorp, Inc, Deutsche Bank Natl. Trust Co. as Trustee for Alliance Bancorp Mortgage Backed Pass-Through Certificate Series 2007-OAO1, Mortgage Electronic Registration Systems; Ocwen LLC; madivento@wrightlegal.net; mjohnson@wrightlegal.net;
Lwozniak@wrightlegal.net

2. SERVED BY UNITED STATES MAIL:

On (*date*) **9/14/18**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Steven Mark Rosenberg
106-1/2 Judge John Aiso St., #225
Los Angeles, CA 90012

U.S. Trustee (SV)
915 Wilshire Blvd, Ste 1850
Los Angeles, CA 90017

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **9/14/18**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

VIA FEDERAL EXPRESS

The Honorable Victoria S. Kaufman
United States Bankruptcy Court - Central District of California
21041 Burbank Blvd, Suite 354 / Courtroom 301
Woodland Hills, CA 91367

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

September 14, 2018
Date

Delorise Cameron
Printed Name

/s/ Delorise Cameron
Signature